

Title	Indian Child Welfare Act (amend Cal. Rules of Court, rule 1439; revise form JV- 600; and adopt form JV-130, <i>Notice of Child Custody Proceedings for an Indian Child</i> and form JV-135, <i>Response to Notice of Proceedings for Indian Child</i> .)
Summary	<p>Rule 1439 would be amended to (1) clarify the term “Indian child”; (2) require a court finding on whether the child is or may be an “Indian child” and a determination that the Indian Child Welfare Act (“the act”) applies; (3) add that the Washoe Tribe is authorized to exercise exclusive jurisdiction; (4) clarify that the act applies to delinquency proceedings; (5) require the probation officer to notify the court on form JV-600, <i>Juvenile Wardship Petition</i>, if he or she has reason to know that the child may be a member of, may be eligible for membership in a federally recognized Indian tribe, or may be of Indian ancestry; and (6) clarify the notice procedures and content under the Indian Child Welfare Act.</p> <p>The <i>Juvenile Wardship Petition</i> form (JV- 600) would be revised to include two boxes in which the probation officer can indicate that the child may be a member of or eligible for membership in a federally recognized Indian tribe or may be of Indian ancestry.</p> <p>Two new forms would be adopted, form JV-130, <i>Notice of Child Custody Proceedings for an Indian Child</i> and form JV-135, <i>Response to Notice of Proceedings for Indian Child</i>, which are modeled after California Department of Social Services forms.</p>
Source	Family and Juvenile Law Advisory Committee Hon. Michael Nash and Hon. Mary Ann Grilli, Co-chairs
Staff	Jennifer Walter, 415-865-7687, jennifer.walter@jud.ca.gov
Discussion	<p><u>Problem:</u></p> <p><i>How to identify whether a child is an “Indian child” under the Indian Child Welfare Act ?</i></p> <p>Confusion exists over the term “Indian child.” Many persons reading the act and the rule are misled into believing that the court determines whether the child is an Indian child and that any child with Indian ancestry must be an Indian child. However, it is the tribe, and not the court, that determines tribal membership and thus ultimately whether a child is an Indian child. (Cal. Rule of Court, rule 1439(g); Welf. & Inst. Code, § 360.6(c).) Where no particular tribe can be reasonably identified, a determination by the Bureau of Indian Affairs (BIA) that</p>

the child is not an Indian child is definitive. (25 U.S.C. § 1912(a).)

The confusion arises because, other than its notice requirements, the provisions of the act apply only if the child is an “Indian child.” (Cal. Rules of Court, 1439(g)(5).) Although rule 1439(e) requires the juvenile court to “proceed as if the child is an Indian child,” when “the court has reason to know the child may be an Indian child,” the rule distinguishes between children who may be Indian children and those who may be of Indian ancestry, requiring only notice to the BIA and “further inquiry regarding the possible Indian status of the child.” The act requires notice to parents, Indian custodians, and the child’s tribes to help protect their procedural rights. Proceedings that take place without proper notice may violate the act, and any action in the case is subject to invalidation. (25 U.S.C. § 1914.)

Proposed Solution: Amend the rule so that it is consistent with the act’s definition of “Indian child” (25 U.S.C. § 1903(4)) by clarifying the term “Indian child” by specifically excluding from the definition a child who may have Indian ancestry, but for whom there are no facts suggesting that he or she is either (1) a member of an Indian tribe, or (2) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

Problem:

The juvenile court record is often unclear in stating whether the child is or may be an “Indian child” and in whether it has made a determination that the act applies.

Rule 1439(d) imposes an affirmative duty on the court and county welfare department to inquire whether a child is an Indian child. The petition, which the county welfare department files, has a box to indicate whether the child may be an Indian child. Throughout the proceedings, new information may come to light about the child’s family that may mean the child is an Indian child. Currently, case records may reflect information that triggers the notice provisions of the act or tribal information that is determinative of the child’s status as an Indian, but rarely is there a court finding about whether the act applies and the basis for its finding. Courts of Appeal are at a disadvantage in reviewing these cases without such a trial court finding.

Proposed Solution: Amend the rule to require the court to inquire whether there is reason to know that the child is or may be an Indian

child and to make a finding based on the Indian tribe's determination regarding whether the act applies. While the court does not make the "Indian child" determination, the revised rule would require the court to state whether it is proceeding under the act based on the tribe's determination.

Problem:

The rule is incorrect in that it states there is no California tribe authorized under the act to exercise exclusive jurisdiction. In fact, the Washoe Tribe is authorized under the act to exercise exclusive jurisdiction.

Proposed Solution: Amend the rule to specify that the Washoe Tribe is authorized under the act to exercise exclusive jurisdiction.

Problems:

The act applies to certain delinquency proceedings, but the rule suggests that the act applies only to dependency proceedings. Also, there currently is no place on the Juvenile Wardship Petition, as there is on the Juvenile Dependency Petition, for the probation officer to inform the court whether the child may be a member of or may be eligible for membership in a federally recognized Indian tribe or may be of Indian ancestry.

The Act applies to any child custody proceedings removing an Indian child from his or her parent or Indian custodian for temporary placement in a foster home or institution where the parent or Indian custodian cannot have the child returned upon demand. (25 U.S.C. § 1903(1).) While the act expressly exempts from its definition of "child custody proceedings", placements based on an act that, if committed by an adult, would be deemed a crime ("law violation"), recent changes to California law make it clear that some delinquency proceedings involving a child who is at risk of entering foster care may be removed from the parent's home for the child's own welfare and not because of any law violation the child may have committed. (25 U.S.C. § 1903(1); Welf. & Inst. Code, §§ 628, 636, 727.) The final rule implementing the Adoption and Safe Families Act (ASFA), which sets forth the requirements for federal funding foster care placements, provides that the ICWA works in the context of ASFA with respect to children in delinquency proceedings, thus confirming that the ICWA does apply to delinquency proceedings involving potential foster care

placement. (See 45 C.F.R. §§ 1355–1357, Title IV-E Foster Care Eligibility Reviews and Child and Family Services State Plan Reviews Final Rule.)

Proposed Solutions: Amend the rule to clarify that it applies to proceedings under section 602 et seq.; to add “probation officer” where the rule references “social worker,” and add “probation department” where the rule references “county welfare department”; and to require probation officers to immediately notify the court on the *Juvenile Wardship Petition* if the child may be a member of or maybe eligible for membership in a federally recognized Indian tribe or may be of Indian ancestry. Also, revise form JV-600, *Juvenile Wardship Petition*, to make it consistent with JV-100, *Juvenile Dependency Petition*, including boxes for the probation officer to indicate whether the child may be a member of or maybe eligible for membership in a federally recognized Indian tribe or may be of Indian ancestry.¹

Problem:

The act requires specific notice procedures and content that, if not followed, may preclude juvenile court jurisdiction and may result in invalidation of the proceedings.

Confusion exists among social workers and probation officers regarding the notice requirements under the act. Recent appellate decisions have found that the act’s notice requirements have not been followed and have invalidated juvenile court orders on that basis. (See *In re Samuel P.* (2002) 99 Cal.App.4th 1259 (reversing the juvenile court’s out-of-placement orders because the act’s notice provisions were not followed); and *In re Dwayne P.* (2002) 103 Cal.App.4th 247 (vacating the juvenile court’s order setting a hearing to terminate parental rights because the act’s notice provisions were not followed).

Proposed Solutions. Amend the rule to clarify that the juvenile court may lack jurisdiction over the child and that the proceedings may be invalidated under the act if the court does not ensure that the notice procedures and the notice content requirements under the act are

¹ In addition, the committee has proposed unrelated revisions to form JV-600, *Juvenile Wardship Petition*, adding a check box to clarify that a party may use this petition form to request issuance of a restraining order and check boxes to indicate paternity status. These revisions are included in a separate proposal entitled Juvenile Law: Petitions and Restraining Orders.

followed. In addition, amend the rule to direct the court to follow certain procedures in determining the type of notice required and to clarify the specific contents of the notice required under the act.

Adopt new form JV-130, *Notice of Child Custody Proceedings for an Indian Child*, and form JV-135, *Response to Notice of Proceedings for Indian Child*. These two forms will ensure that juvenile courts provide the federally mandated notice to tribes and that tribes, by means of a plain-language *Response* form have increased access to the state courts.

The proposed revised rule is attached at pages 6–13, and the proposed amended form and new forms are attached at pages 14–19.

Attachments

Rule 1439 of the California Rules of Court would be amended, effective January 1, 2004 to read:

DIVISION IC. Juvenile Court Rules

CHAPTER 8. Cases Petitioned Under Section 300

PART II. Indian Child Welfare Act

Rule 1439. Indian Child Welfare Act (25 U.S.C. § 1901 et seq.)

(a) [Definitions; 25 U.S.C. §1903] As used in this rule, unless the context or subject matter otherwise requires:

(1) “Indian child” means an unmarried person under the age of 18 who:

(A) is a member of an Indian tribe, or

(B) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

The term does not include a child who may have Indian ancestry if, after inquiry as required under (d) of this rule, there are no facts suggesting that the child is either (1) a member of an Indian tribe or (2) eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

(2) “Indian child’s tribe” means:

(A) the Indian tribe in which the child is a member or is eligible for membership;

or

(B) in the case of an Indian child who is a member of or is eligible for membership in more than one tribe, the Indian tribe with which the Indian child has more significant contacts.

(3) “Indian custodian” means any Indian person who has:

1 (A) legal custody of an Indian child under tribal law or custom, or under
2 state law;

3
4 or

5
6 (B) temporary physical care, custody, and control of an Indian child
7 whose parent or parents have transferred custody to that person.
8

9 (4) “Parent of an Indian child” means the biological parent of an Indian child
10 or any Indian person who has lawfully adopted an Indian child, including
11 adoptions under tribal law or custom. (This definition does not include a
12 non-Indian adoptive parent, or an unwed alleged father where paternity
13 has not been determined or acknowledged.)
14

15 (5) “Custody” means legal or physical custody or both as provided under
16 state law or tribal law or custom.
17

18 (6) “Indian tribe” means any ~~Indian~~ tribe, band, nation, or other organized
19 group or community of Indians eligible for services provided to Indians
20 by the Secretary of the Interior because of their status as Indians,
21 including any Alaskan Native Villages as defined by section 1602(c) of
22 title 43 of the United States Code.
23

24 (7) “Extended family” means those persons defined by the law or custom of
25 the Indian child's tribe or, in the absence of such law or custom, an adult
26 grandparent, aunt, uncle, brother, sister, sister-in-law, brother-in-law,
27 niece, nephew, first or second cousin, or stepparent of the Indian child.
28

29 (8) “Child custody proceeding” means and includes a proceeding at which the
30 court considers foster care placement, appointment of a guardian,
31 termination of parental rights, preadoptive placement, or adoptive
32 placement.
33

34 (9) “Foster care placement” means any temporary placement from which a
35 child may not be removed by the parent or Indian custodian upon
36 demand, including a shelter care home, a foster home, or an institution; or
37 the home of a guardian or conservator.
38

39 (10) “Qualified expert witness” means a person qualified to address the issue
40 of whether continued custody by a parent or Indian custodian is likely to
41 result in serious physical or emotional damage to the child. Persons most
42 likely to be considered such an expert are:
43

- 1 (A) a member of a tribe with knowledge of Indian family organization
2 and child rearing; or
3
4 (B) a lay expert with substantial experience in Indian child and family
5 services and extensive knowledge of the social and cultural
6 standards and child-rearing practices of Indian tribes, specifically the
7 child's tribe, if possible; or
8
9 (C) a professional person with substantial education and experience in
10 Indian child and family services and in the social and cultural
11 standards of Indian tribes, specifically the child's tribe, if possible; or
12
13 (D) a professional person having substantial education and experience in
14 the area of his or her specialty.
15

16 (11) "Act" means the Indian Child Welfare Act (25 U.S.C. §§ 1901—1963).
17

18 (12) "tribal court" means a court with jurisdiction over child custody
19 proceedings, identified as a Court of Indian Offenses, a court established
20 and operated under the code or custom of an Indian tribe, or any other
21 administrative body of a tribe that is vested with authority over child
22 custody proceedings. If applicable, the tribal court has met the
23 requirements for resumption of jurisdiction over child custody
24 proceedings as approved by the Department of the Interior.
25

26 (b) **[Applicability of rule; 25 U.S.C. §§ 1911, 1912]** This rule applies to all
27 proceedings under section 300 et seq. and section 602 et seq., including
28 detention hearings, jurisdiction hearings, disposition hearings, reviews,
29 hearings under section 366.26, and subsequent hearings affecting the status of
30 the Indian child.
31

32 (c) **[Jurisdiction; 25 U.S.C. § 1911]**
33

34 (1) If the Indian child resides or is domiciled on an Indian reservation that
35 exercises exclusive jurisdiction under the Act over child custody
36 proceedings, the petition under section 300 must be dismissed. ~~At present~~
37 As of January 1, 2004, no California tribe only the Washoe Tribe is
38 authorized under the Act to exercise exclusive jurisdiction.
39

40 (A) If the Indian child is temporarily off a reservation that exercises
41 exclusive jurisdiction, the juvenile court ~~shall~~ must exercise
42 temporary jurisdiction if there is an immediate threat of serious

1 physical harm to the child.

2
3 (B) Absent extraordinary circumstances, temporary emergency custody
4 ~~shall~~must terminate within 90 days, unless the court determines by
5 clear and convincing evidence, including the testimony of at least
6 one qualified expert witness, that return of the child is likely to cause
7 serious damage to the child.

8
9 (C) The child must be returned immediately to the parent or Indian
10 custodian when the emergency placement is no longer necessary to
11 prevent serious harm to the child.

12
13 (2) If the Indian child is not domiciled or residing on a reservation that
14 exercises exclusive jurisdiction, the tribe, parent, or Indian custodian may
15 petition the court to transfer jurisdiction to the tribal jurisdiction, and the
16 juvenile court ~~shall~~ must transfer jurisdiction to tribal jurisdiction unless
17 there is good cause not to do so.

18
19 (A) Either parent may object to the transfer.

20
21 (B) The tribe may decline the transfer of jurisdiction.

22
23 (3) If the tribe does not intervene or the tribal court does not request transfer
24 to tribal jurisdiction, or if there is no response to the notice, the court
25 should proceed to exercise its jurisdiction under section 300 et seq., in
26 accordance with the procedures and standards of proof as required by the
27 Act.

28
29 (d) **[Inquiry]** The court, the probation department, and the county welfare
30 department have an affirmative duty to inquire whether a child for whom a
31 petition under section 602 or 300 is to be, or has been, filed is or may be an
32 Indian child.

33
34 (1) In delinquency cases, if the probation officer believes that the child is at
35 risk of entering foster care or is in foster care, he or she must ask the
36 child, if the child is old enough, and the parents or legal guardians
37 whether the child is an Indian child or has Indian ancestors. If, after such
38 inquiry, the probation officer has reason to know that the child may be a
39 member of or may be eligible for membership in a federally recognized
40 Indian tribe or may be of Indian ancestry, then the probation officer must
41 immediately notify the juvenile court by checking section 1(m) or 1(n) of
42 the Juvenile Wardship Petition (JV-600).
43

1 (2) In dependency cases, the social worker must ask the child, if the child is
2 old enough, and the parents or legal guardians whether the child is an
3 Indian child or has Indian ancestors. If, after such inquiry, the social
4 worker has reason to know that the child may be a member of or may be
5 eligible for membership in a federally recognized Indian tribe or may be
6 of Indian ancestry, then the social worker must immediately notify the
7 juvenile court by checking section 1(l) or 1(m) of the *Juvenile*
8 *Dependency Petition (Version One)* (JV-100) or section 1(i) or 1(j) of the
9 *Juvenile Dependency Petition (Version Two)* (JV-110). ~~must be checked~~
10 if there is reason to know the child may be a member of or eligible for
11 membership in a federally recognized Indian tribe or if there is reason to
12 believe the child may be of Indian ancestry.

13
14 (2)(3) The circumstances that may provide probable cause for the court to
15 believe the child is an Indian child include, but are not limited to, the
16 following:

17
18 (A) A ~~party~~ person having an interest in the child, including the child, an
19 Indian tribe, an Indian organization, an officer of the court, or a
20 public or private agency, informs the court or the county welfare
21 agency or the probation department or provides information
22 suggesting that the child ~~is an Indian child~~ may be a member or may
23 be eligible for membership in an Indian tribe and the biological child
24 of a member of an Indian tribe;

25
26 (B) The residence of the child, the child's parents, or an Indian custodian
27 is in a predominantly Indian community; and

28
29 (C) Facts indicating that the child or the child's family has received
30 services or benefits from a tribe or services that are available to
31 Indians from tribes or the federal government, such as Indian Health
32 Services.

33
34 (e) **[Proceedings; 25 U.S.C. § 1912]**

35
36 (1) If section 1(l) of the *Juvenile Dependency Petition (Version One)* (JV-
37 100) or section 1(i) of the *Juvenile Dependency Petition (Version Two)*
38 (JV-110) or section 1(m) or 1(n) of the *Juvenile Wardship Petition* is
39 checked, or if, upon inquiry, or based on other information, the court has
40 reason to know the child may be an Indian child, the court must proceed
41 as if the child is ~~were~~ an Indian child and ~~shall~~ proceed with all
42 dependency and delinquency hearings, observing the Welfare and
43 Institutions Code timelines while complying with the Act and this rule.

1
2 (A) A determination by the identified tribe ~~or the Bureau of Indian~~
3 Affairs (BIA) that the child is or is not an Indian child ~~shall be is~~
4 definitive.

5
6 (B) If no particular tribe can be reasonably identified, a determination by
7 the Bureau of Indian Affairs (BIA) that the child is not an Indian
8 child is definitive.

9
10 (2) If section 1(m) of the *Juvenile Dependency Petition (Version One)* (JV-
11 100) is checked and section 1(l) is not, or section 1(j) of the *Juvenile*
12 *Dependency Petition (Version Two)* (JV-110) is checked and section 1(i)
13 is not, or if section 1(m) of the *Juvenile Wardship Petition* is checked and
14 section 1(n) of the *Juvenile Wardship Petition* is not, notice of the
15 proceedings to the Bureau of Indian Affairs and further inquiry regarding
16 the possible Indian status of the child are the only requirements.

17
18 (3) The court must make a finding that the Indian Child Welfare Act applies
19 if there is reason to know the child is or may be an Indian child. If, upon
20 inquiry, there are no facts suggesting that the child possesses more than
21 possible Indian ancestry, then the court must make a finding that the
22 Indian Child Welfare Act does not apply to the case and will not be
23 applied absent new facts suggesting that the child is an Indian child.

24
25 (f) **[Notice; 25 U.S.C. § 1912]** The parent or legal guardian and Indian custodian
26 of an Indian child, and the Indian child's tribe, must be notified of the pending
27 petition and the right of the tribe to intervene in the proceedings, and proof of
28 such notice, including copies of notices sent and all return receipts received,
29 must be filed with the juvenile court.

30
31 (1) If at any time after the filing of the petition the court knows or has reason
32 to know that the child is or may be an Indian child, the following notice
33 procedures must be followed:

34
35 ~~(1)~~(A) Notice must be sent by registered or certified mail with return
36 receipt requested, and additional notice by first class mail is
37 recommended.

38
39 ~~(2)~~(B) Notice to the tribe shall be to the tribal chairman ~~man~~ person unless
40 the tribe has designated another agent for service.

41
42 ~~(3)~~(C) Notice shall be sent to all tribes of which the child may be a
43 member or may be eligible for membership.

1
2 (4)(D) If the identity or location of the parent or Indian custodian or
3 the tribe cannot be determined, notice shall be sent to the specified
4 office of the Secretary of the Interior, which has 15 days to provide
5 notice as required.
6

7 (5)(E) Notice shall be sent whenever there is reason to believe the
8 child may be an Indian child, and for every hearing thereafter unless
9 and until it is determined that the child is not an Indian child.
10

11 (2) Notice to the child's parents or legal guardians or Indian custodians and
12 the tribe must be written in clear and understandable language and include
13 all of the following:
14

15 (A) The name of the child;
16

17 (B) The child's tribal affiliations;
18

19 (C) A copy of the petition;
20

21 (D) The petitioner's name and the name and address of the petitioner's
22 attorney;
23

24 (E) A statement that counsel will be appointed for the Indian custodians
25 who are indigent;
26

27 (F) A statement that the Indian custodians and the child's tribes have the
28 right to intervene in the proceedings at any time;
29

30 (G) A statement of the right of the Indian custodians and tribes, upon
31 request, to have up to 20 additional days to prepare for the hearing;
32

33 (H) The location, mailing address, and telephone number of the court;
34

35 (I) A statement of the right of the Indian custodians and tribes to
36 petition the court to transfer the proceeding to tribal court;
37

38 (J) A statement of the potential legal consequences of an adjudication
39 on future custodial rights of the parents and Indian custodians; and
40

41 (K) A statement that tribal officials should keep confidential the
42 information in the notice.
43

1 (g) – (p) * * *

2 Advisory Committee Comment

3 California appellate courts have stated that it is the role of the juvenile court to determine whether
4 notice to Indian tribes under the Indian Child Welfare Act is proper. (*In re Nikki* (2003) 106 Cal.App.4th
5 at ; *In re Samuel P.* (2002) 99 Cal.App.4th at 1266-67; *In re Jeffrey A.* (2002) 103 Cal.App.4th 1103,
6 1108; *In re Marinna J.* (2001) 90 Cal.App.4th 731, 739.) When the court has reason to believe Indian
7 children are involved in juvenile proceedings, the court has the *sua sponte* duty to ensure that the Indian
8 tribe receives notice in compliance with the Indian Child Welfare Act. (*In re Samuel P.* (2002) 99
9 Cal.App.4th at 1267; *Dwayne P.* (2002) 103 Cal.App.4th at 261.)

10
11 When the court does not comply with the mandates of the Indian Child Welfare Act, such as
12 giving proper notice to Indian tribes, the court's order is voidable and subject to reversal. (*In re Nikki*
13 (2003) 106 Cal.App.4th at ; *Dwayne P.* (2002) 103 Cal.App.4th at 254; See, e.g., *In re Samuel P.* (2002),
14 99 Cal.App.4th 1259; *In re Suzanna L.* (2002) 104 Cal.App.4th 223; *In re H.A.* (2002) 103 Cal.app.4th
15 1206; *In re Jeffrey A.* (2002) 103 Cal.Ap.4th 1103; *In re Jennifer A.* (2002), 103 Cal.App.4th 692; *In re*
16 *Jonathan D.* (2001) 92 Cal.App.4th 105; *In re Marinna J.* (2001) 90 Cal.App.4th 731; *In re Desiree F.*
17 (2000) 83 Cal.App.4th 460.)
18
19

PETITIONER OR ATTORNEY (Name and Address): TELEPHONE NO.:		FOR COURT USE ONLY <h1 style="text-align: center;">DRAFT 3</h1> <h2 style="text-align: center;">3/26/03</h2>
ATTORNEY FOR (Name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CASE NAME:		
NOTICE OF CHILD CUSTODY PROCEEDINGS FOR AN INDIAN CHILD Juvenile Court		
		CASE NUMBER:

NOTICE TO:

☐ **Mother**
☐ **Father**
☐ **Tribe(s)**
☐ **Indian Custodian**
☐ **Bureau of Indian Affairs**

1. a. Child's Name:
 b. Date of birth:
 c. Place of birth (*city, state and or reservation*):

2. Child is reported to be eligible for the following tribe(s) or band(s):

3. Information on child's mother
 - a. Name (*include maiden name and any other names she has used*):
 - b. Tribal affiliation (*include all tribes or band named by mother or relative*):
 - c. Date of birth:
 - d. Place of birth:

4. Information on child's father
 - a. Name (*include other names he has used*):
 - b. Tribal affiliation (*include all tribes or band named by father or relative*):
 - c. Date of birth:
 - d. Place of birth:

5. ☐ Additional family information is on attachment 5.

BASED ON A PETITION FILED (date): _____ **THE CHILD HAS BEEN TEMPORARILY PLACED IN THE CUSTODY OF THE COUNTY WELFARE DEPARTMENT, PROBATION DEPARTMENT OR INDIAN CUSTODIAN(S) NAMED BELOW:**

6. County Welfare Department (*Address*):
7. Probation Department (*Address*):
8. Indian Custodian(s):
 Tribe:

9. Name of Social Worker/Probation Officer:

Phone number:

HEARING INFORMATION

10. Date of next hearing:	Time:	Type of hearing:
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☐ Located at above address
 ☐ Other:

CASE NAME:	CASE NUMBER:
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CERTIFICATE OF MAILING
(To be completed by Social Worker or Clerk of Juvenile Court)

I certify that I am not a party to this cause and that an endorsed filed copy of the foregoing notice was mailed as follows: Each copy was enclosed in an envelope with postage for Certified Mail, Return Receipt Requested fully prepaid. The envelopes were addressed to each person, tribe or bureau indicated in item 1. Each envelope was sealed and deposited with the United States Postal Service at (place):
On (date):

Date:

_____	_____	<input type="checkbox"/> Probation Officer	<input type="checkbox"/> Social Worker	<input type="checkbox"/> Deputy Clerk
Print Name	Signature			

UNDER THE INDIAN CHILD WELFARE ACT YOU HAVE THE FOLLOWING RIGHTS:

1. The natural (biological) parents, any Indian custodian and the child's tribe have the right to be present at all hearings.
2. The natural (biological) parents, any Indian custodian and the child's tribe have the right to intervene in the proceedings.
3. If the parents or custodians have a right to be represented by a lawyer and if they cannot afford to hire one, a lawyer will be appointed for them.
4. If the child's tribe, any parent or Indian custodian requests it, the court will permit the hearing to be held up to 20 days later.
5. The date, time and place of the hearing are on the first page of this form.
6. If the tribe has a tribal court, the tribe, any parent or Indian custodian of the child may request a transfer of the case to the child's tribal court. They have the right to refuse to have the case transferred to the tribal court.
7. The proceedings could lead to the child being removed from the custody of the parent or Indian custodian and possible adoption of the child.

CASE NAME:	CASE NUMBER:
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ATTACHMENT 5
INFORMATION ON CHILD WHO IS THE SUBJECT OF AN INVOLUNTARY CUSTODY PROCEEDING

	NAME	BIRTHDATE	BIRTHPLACE	TRIBE and LOCATION	ENROLLED?	ENROLLMENT NUMBER OR HOME AGENCY
Birth Mother						
Maternal Grandmother						
Birth Father						
Paternal Grandmother						
Paternal Grandfather						
Great Grandparents						
Maternal						
Paternal						
Other						

1. ☐ Birth father is named on birth certificate.
2. ☐ Birth father has acknowledged paternity.
3. ☐ There has been a judicial declaration of paternity.

PETITIONER OR ATTORNEY (Name and Address): TELEPHONE NO.:		FOR COURT USE ONLY <h1 style="text-align: center;">DRAFT 3</h1> <h2 style="text-align: center;">3/26/03</h2>
ATTORNEY FOR (Name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CASE NAME:		
RESPONSE TO NOTICE OF PROCEEDINGS FOR INDIAN CHILD		
		CASE NUMBER:

FROM: ☐ Bureau of Indian Affairs ☐ Tribe or Band (name:)

Notice was received on (date) of receipt:

1. ☐ (Name(s) of child or children):

is/are Indian child(ren) under the Indian Child Welfare Act based on:

- a. ☐ Membership in ☐ tribe or band that received notice ☐ other (name of tribe or band):
- b. ☐ Mother ☐ Father of (name(s) of child or children):

is a member of ☐ tribe or band that received notice ☐ other (name of tribe or band):

and the child(ren) is/are eligible for membership in the parent's tribe or band.

2. ☐ The child(ren) reside(s) or is/are domiciled on the following reservation (name and location of reservation):

☐ The reservation is exercising its exclusive jurisdiction over the proceedings.

3. ☐ The child(ren) is/are not residing or domiciled on a reservation, but the tribe requests and will file a petition if necessary to have the matter transferred to tribal jurisdiction.
4. ☐ The tribe is intervening in the proceedings and a tribal representative will appear at the hearing.
5. ☐ The tribe is exercising its right to a continuance of twenty (20) days from the receipt of the Notice.
6. ☐ There is no record to indicate that the child(ren) is/are member(s) or is/are eligible for membership in a recognized tribe or band.
- a. ☐ No further search is necessary; the child is not an Indian Child under the Act.
- b. ☐ Further search is necessary to make a final determination.
- (1). ☐ Please provide the following information:

☐ Attachment 6

(2). ☐ No additional information is required.

Date:

Print Name

Signature

Position in Tribe, Band or BIA

PETITIONER OR ATTORNEY (Name and Address): _____ ATTORNEY FOR (Name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	TELEPHONE NO.:	FOR COURT USE ONLY <div style="font-size: 2em; font-weight: bold; margin: 20px 0;">DRAFT 2</div> <div style="font-size: 2em; font-weight: bold; margin: 0 0 20px 0;">3/14/03</div>
CASE NAME:		CASE NUMBER:
<div style="text-align: center;"> JUVENILE WARDSHIP PETITION (Welfare and Institutions Code, §600 et seq.) </div> <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <div style="text-align: center;"> <input type="checkbox"/> § 601(a) <input type="checkbox"/> § 601(b) </div> <div style="text-align: center;"> <input type="checkbox"/> § 602(a) <input type="checkbox"/> § 777 </div> <div style="text-align: center;"> <input type="checkbox"/> § 778 <input type="checkbox"/> § 213.5 </div> </div>		

1. Petitioner on information and belief alleges the following:

a. <input type="checkbox"/> The child named below comes within the jurisdiction of the juvenile court under the following sections of the Welfare and Institutions Code (<i>check applicable boxes; see attachments for concise statements of facts</i>): <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <input type="checkbox"/> 601(a) <input type="checkbox"/> 601(b) <input type="checkbox"/> 602(a) Violation (<i>specify code and section No.</i>): </div>			
b. <input type="checkbox"/> Under a previous order of this court, dated _____, the child was declared a ward under Welfare and Institutions Code section <input type="checkbox"/> 601(a) <input type="checkbox"/> 601(b) <input type="checkbox"/> 602(a).			
c. Child's name and address:	d. Age:	e. Date of birth:	f. Sex:
g. Mother's name: <input type="checkbox"/> unknown Address: <input type="checkbox"/> unknown	h. Father's name: <input type="checkbox"/> unknown Address: <input type="checkbox"/> unknown <input type="checkbox"/> married to mother <input type="checkbox"/> alleged		
i. Other (<i>state name, address, and relationship to child</i>): <input type="checkbox"/> No known parent or guardian resides within this state. This adult relative lives in this county or is closest to this court.	j. Other (<i>state name, address, and relationship to child</i>): <input type="checkbox"/> No known parent or guardian resides within this state. This adult relative lives in this county or is closest to this court.		
k. Attorney for child (if known): Address: Phone number:	l. Child is <input type="checkbox"/> not detained <input type="checkbox"/> detained. Date and time of detention (custody):		
m. <input type="checkbox"/> Child may be a member of, or may be eligible for membership in, a federally recognized Indian tribe.			
n. <input type="checkbox"/> Child may be of Indian ancestry			

2. ☐ Petitioner requests a hearing to determine whether the child is a fit and proper subject under juvenile court law under Welfare and Institutions Code section ☐ 707(a)(1) ☐ 707(a)(2) ☐ 707(c).

CASE NAME:	CASE NUMBER:
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3. Petitioner requests that the court find these allegations to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF PETITIONER)

☐ Number of pages attached: _____

—NOTICE—

TO PARENTS OR OTHERS LEGALLY RESPONSIBLE FOR THE SUPPORT OF THE CHILD

You and the estate of your child may be jointly and severally liable for the cost of the care, support, and maintenance of your child in any placement or detention facility, the cost of legal services for your child or you by a public defender or other attorney, and the cost of supervision of your child by order of the juvenile court.